IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 156 of 2007
In
OFFICIAL LIQUDATOR REPORT No. 69 of 2006
In COMPANY PETITION No. 39 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BANK OF INDIA - Applicant(s)
Versus
O.L. OF M/S. AARTI PETRO CHEMICALS LTD. & 1 - Respondent(s)

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Appearance :
MR CHIRAG R KOTHARI for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
MR TR MISHRA for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 03/04/2007

ORAL JUDGMENT

Present Judges summons has been taken out by the

applicant Bank of India for an appropriate order directing the Official Liquidator to disburse an amount of Rs.1 crore or any other amount as may be found due and payable to the applicant as a secured creditor as well as with further interest at the rate of 12% per annum from 7-12-2006 till disbursement of the same to the applicant.

In support of the Judges summons and the prayer made therein, the applicant has relied upon the recovery certificate issued by the DRT dated 18-11-2003. It is required to be noted that the company against whom the recovery certificate has been issued by the DRT was already ordered to be wound up by this court much earlier than the recovery certificate issued by the DRT and still the OL was not joined as party. Under the circumstances, on the basis of the recovery certificate dated 18-11-2003, the applicant cannot pray for the reliefs which is sought for in the present application. However, it will be open for the applicant to move an appropriate application before the appropriate forum or before this court, if the applicant has any further right to recover the amount inclusive of by making an appropriate application before this court.

This application is accordingly disposed of.

(M.R. SHAH, J.)

shekhar